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EXAMINER

WILKENS, JANET MARIE

ART UNIT	PAPER NUMBER
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3637

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/635,362
Filing Date: August 05, 2003
Appellant(s): FALKE, ROB

MAILED

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GROUP 3600

Steven L. Nichols
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 21, 2006 appealing from the Office
action mailed May 2, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

533,030	BECK	01-1895
3,238,643	O'CONNOR	03-1964
668,582	MCCLINTOCK	02-1901
6,735,831	GREIWE ET AL	05-2004
1,569,486	HARDIN	01-1926

Hepplewhite Pembroke table web listing at www.liveauctioneers.com/item/791809

Merriam-Webster Online definitions for "stamp" and "etch"

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 12, it is unclear how carving, wood burning, etching, brush marks, imprints and stamps can be considered handwritten writings. Please note: in the specification (page 3), the term "writings" encompass the above features; however, the only handwritten writings disclosed are the handwritten letters.

Claims 1-14 and 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardin. Hardin teaches a piece of furniture/desk (Fig. 1) having a shelf (2; which is material used as part of the furniture construction) formed as a plank with a recess designed to hold writings, etc there within (Note: because of recess, shelf can also be considered a drawer). The writings (see column 1, lines 12-17) can consist of a piece of paper having columns and rows via dividers/markings (see Fig. 1) and are "permanently" held in the plank if never physically removed. Suction cups in grooves/markings (10) are located inside the plank and inherently provide visual features helpful in the placement of the writings (e.g. the writing are located there between, see Fig. 1). The method steps of the claims would inherently be provided for by Hardin since the final results, e.g. permanent writings in a plank which is part of a piece of furniture, are clearly shown. The writings could be added onto the plank before or during use of the piece of furniture, depending on the desired need of the person using/designing the piece of furniture. The writings are protected from outside elements when a glass sheet (5) is placed there over and/or when the plank is in its closed position. For claim 1, Hardin fails to teach that the writings are specifically handwritten; however, handwritten notes, papers, etc. (using pens, pencils, etc.) are well known in the art, and this type of paper/writing would have been obvious to use in conjunction with the shelf/plank of Hardin. Furthermore, adding a family tree, pedigree chart, signature, date(s), notary stamp, specific historical event, time etc. on this piece of paper would have been an obvious consideration to one of ordinary skill in the art, depending on the interests of the user, activity/job performed at the desk, etc. Finally,

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storing memorabilia, such as a ticket, photo etc, with the paper for reference or safe keeping would have been an obvious consideration, depending on the subject matter of the paper, etc (see column 1, lines 12-15 of Hardin).

Claims 1-5, 8-15 and 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greiwe et al. Greiwe teaches a piece of furniture/container (Figs. 1 and 2) having a plaque (70; which is material used as part of the furniture construction) formed as a plank designed/prepared to receive writings. The writings are "permanently" added on the plank and can contain a person's name thereon, etc. (see Fig. 2). The method steps of the claims would inherently be provided for by Greiwe since the final results, e.g. permanent writings on a plank which is part of a piece of furniture, are clearly shown. The writings could be added onto the plank before or during use of the piece of furniture, depending on the desired need of the person using/designing the piece of furniture. The writings are protected from outside elements when the plank is in its closed position. Furthermore, articles (62,64) are stored in the container above the plank. For claim 1, Greiwe fails to teach that the writings are specifically handwritten; however, handwriting information on articles of furniture, for ownership purposes, documentation purposes, etc. is well known in the art, and could have been the means used to write information on the plank of Greiwe. Furthermore, adding a family tree, pedigree chart, signature, date(s), stamps, specific historical event, time etc. on the plank would have been an obvious consideration to one of ordinary skill in the art (see Fig. 2 wherein memory of John Doe is depicted), depending on the desired need of the person preparing the container.

For claims 2, 14 and 15, Greiwe fails to teach markings/parallel grooves etched in the plank. However, the use of lines on members to aid in adding written material thereon (so that the words/letters are written in a straight line) is well known in the art. Therefore, to etch such grooves in the plaque of Greiwe would have been an obvious design consideration, for the advantage stated above.

Claims 1-3, 6-11, 28 and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClintock. McClintock teaches a piece of furniture (Fig. 1) with drawers (4). The drawers include writings on tablets (18) thereof. The tablets are constructed as flat members and employ fasteners/markings to hold papers permanently thereon (Note: if the papers are never removed, they can be considered permanent). The method steps of the claims would inherently be provided for by McClintock since the final results, e.g. permanent writings on the drawer tablets, are clearly shown. The writings could inherently be added onto the tablets before or during use of the piece of furniture, depending on the desired need of the person using/designing the piece of furniture. The writings being inherently protected from outside elements when the drawers are in their closed positions. For claim 1, McClintock fails to teach that the writings are specifically handwritten; however, handwritten notes, papers, etc. (using pens, pencils, etc.) are well known in the art and this type of paper/writing would have been obvious to use in conjunction with the tablets of McClintock. Furthermore, adding a family tree, pedigree chart, signature, date(s), notary stamp, specific historical event, time etc. on this piece of paper would have been

an obvious consideration to one of ordinary skill in the art, depending on the information stored in the case/piece of furniture, etc.

(10) Response to Argument

First, it should be understood that the references cited below, i.e. the references of Beck, O'Connor and the web citations, are merely being introduced to provide evidence to the Official notice statements given in the previous Office action. This action being the first opportunity for the examiner to address applicant's challenges on these statements. Please note that no art rejection has been modified from the previous Office action.

Addressing the arguments concerning the 112 second paragraph rejection: throughout prosecution of this application, the term "handwriting" has not been presented in a consistent manner. In the disclosed specification (page 3), the term "writings" encompass the features including carving, wood burning, etching, brush marks, imprints and stamps; however, the only handwritten writings disclosed are the handwritten letters (using pens or pencils). Next, applicant argues that the above features make handwritten writings because instruments which are operated by hand are employed. However, this is not always the case. In the enclosed definition of "etch", the "writing" is done by something eating into the material's surface and in the enclosed definition of "stamp", no writing per say is required. (Merriam-Webster Online dictionary) Then, when arguing the origin of the writing on the plaque of Greiwe, applicant is quick to point out that the writing is not handwritten (see page 7 of

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arguments filed July 21, 2006). However, since the wording thereon is intended to be personalized and therefore either “handwritten” with a writing implement or written using means such as etching, this argument appears to be contradictory/not consistent with the 112 second paragraph rejection argument.

Addressing the arguments directed to the reference of McClintock: as stated above, McClintock teaches all of the limitations of the claims, including a surface of a material that is used to construct a piece of furniture that is configured to permanently receive handwritten writings. It should be understood that the broadest reasonable interpretation is used when determining the scope of the claims. Therefore, just because the applicant intends for a limitation to mean one thing, i.e. having the material itself receive the writings, does not preclude the examiner from having another interpretation. In the instant case, the tablets (which are used in the construction of a piece of furniture) are constructed to receive writings, i.e. papers with writings, thereon (each plank has a flat bottom construction and a fastener, which can be considered markings, added thereon for receiving the papers). If the papers are never removed, they can be considered permanent. Furthermore, since the method steps are merely “storing” the writings, “preparing” a furniture member for receiving the writings and “moving” the member from one position to another, the examiner contends that McClintock inherently teaches the method of steps disclosed. As for the “handwritten” writings, handwritten notes, papers, etc. (using pens, pencils, etc.) are well known in the art, as shown by Beck (ref. 533,030; at H, also see column 2, lines 95-100), and this

type of paper/writing would have been obvious to use in conjunction with the papers/tablets of McClintock.

Addressing the arguments directed to the reference of Hardin: as stated above, Hardin teaches all of the limitations of the claims, including a surface of a material that is used to construct a piece of furniture that is configured to permanently receive handwritten writings. Once again, it should be understood that the broadest reasonable interpretation is used when determining the scope of the claims. Therefore, just because the applicant intends for a limitation to mean one thing, i.e. having the material itself receive the writings, does not preclude the examiner from having another interpretation. In the instant case, the shelf (which is used in the construction of a piece of furniture) is constructed to receive writings, i.e. papers with writings, in a recess thereof. If the papers are never removed, they can be considered permanent. Furthermore, since the method steps are merely "storing" the writings, "preparing" a furniture member for receiving the writings and "moving" the member from one position to another, the examiner contends that Hardin inherently teaches the method of steps disclosed. As for the "handwritten" writings, handwritten notes, papers, etc. (using pens, pencils, etc.) are well known in the art, as shown by Beck (ref. 533,030; at H, also see column 2, lines 95-100), and this type of paper/writing would have been obvious to use in conjunction with the papers of Hardin.

Addressing the arguments directed to the reference of Greiwe: as stated above, Greiwe teaches all of the limitations of the claims, including a surface of a material that is used to construct a piece of furniture that is configured to permanently receive

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handwritten writings. In the instant case, the plaque (which is used in the construction of a piece of furniture) is constructed to receive writings. Furthermore, since the method steps are merely "storing" the writings, "preparing" a furniture member for receiving the writings and "moving" the member from one position to another, the examiner contends that Greive inherently teaches the method of steps disclosed. As for the "handwritten" writings, the wording on the plaque is intended to be personalized and therefore it would have been obvious to either "handwrite" the information thereon with a writing implement or using means such as etching or stamping (see disclosed definition for etching and see web page disclosing stamped signature inside a drawer of a 1800s Hepplewhite Pemroke table; www.liveauctioneers.com/item/791809).

Addressing the argument concerning the grooves: as stated above, the use of lines on members to aid in adding written material thereon (so that the words/letters are written in a straight line) is well known in the art. This feature being shown by O' Connor (3,238,643) in Fig. 4. Furthermore, if the wording on the plaque is etched, then the lines themselves would also be applied in this manner, thereby forming grooves.

Addressing the argument of claim 28: please note that this claim is a method claim and not a business method claim. Furthermore, no clarification is given to the step "designating said members..." therefore, a broad interpretation can be applied. Namely, when one sees any of the pieces of furniture of McClintock, Hardin or Greive, they will understand that papers can be placed on the shelves/drawers of McClintock and Hardin and writing applied to the plaque of Greive. Therefore, this method step is met.

In closing, even if the claims were written to limit the "writing" so that it need be located directly on the pieces of furniture, the examiner contends that this has long been known. As shown by the web page of the 1800s Hepplewhite Pemroke table, furniture designers have been signing their pieces for years. In addition, student desks have long been decorated with graffiti. Furthermore, there is nothing disclosed by applicant that would distinguish his piece of furniture from that of other pieces of furniture known in the art which would make writing thereon any easier or unique (i.e. the applicant discloses that the writing material can be wood, plastic, metal, ceramic, marble, etc which are all common materials). It should also be understood that what is written on any type of structure is inherently up to the writer; writings of family trees, pedigree charts, including signatures, date(s), stamps, specific historical events, genealogical form, time etc being simply a matter of choice.

(11) Related Proceeding(s) Appendix

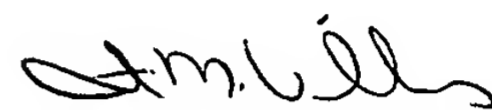
No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Janet Wilkens


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